

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>TONY LAMAR LINDSEY,</b>	)	
<b>ID # 18016936,</b>	)	
<b>Plaintiff,</b>	)	
<b>vs.</b>	)	<b>No. 3:18-CV-1588-M-BH</b>
	)	
<b>DALLAS COUNTY JAIL SHERIFF'S</b>	)	
<b>DEPT., et al.,</b>	)	
<b>Defendant.</b>	)	<b>Referred to U.S. Magistrate Judge</b>

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION**

By *Special Order No. 3-251*, this *pro se* prisoner case has been automatically referred for full case management. Before the Court is the plaintiff's *Order to Show Cause for Preliminary Injunction and Temporary Restraining Order*, received June 28, 2018 (doc. 10). The proposed order is liberally construed as a motion for a temporary restraining order, and based on the relevant filings and applicable law, it should be **DENIED**.

**I. BACKGROUND**

Plaintiff, an inmate at the Dallas County Jail, sues the jail and one of its officers under 42 U.S.C. § 1983 for alleged use of excessive force against him in the jail on May 2, 2018. (*See* doc. 3 at 4.)<sup>1</sup> On or about June 28, 2018, he submitted a proposed order to show cause and temporary restraining order prohibiting jail officials from punishing or retaliating against him as a result of his lawsuit. (*See* doc. 10.) The proposed order is liberally construed as a motion for a temporary restraining order (TRO) or preliminary injunction under Rule 65.

**II. TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION**

A preliminary injunction can be issued only after notice to the adverse party. *See* Fed. R.

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<sup>1</sup> Citations to the record refer to the CM/ECF system page number at the top of each page rather than the page numbers at the bottom of each filing.

Civ. P. 65(a)(1). Although a court may issue a TRO without notice to the adverse party, it may only do so if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). The party seeking a TRO or preliminary injunction has the burden to show that he or she is entitled to it. *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987).

Plaintiff has not shown that he has given notice to the defendants of his request for injunctive relief. Neither has he satisfied the requirements for a TRO under Rule 65(b) by submitting an affidavit or verified complaint which clearly shows an immediate, irreparable injury, loss, or damage that will result before the defendants can be heard in opposition, and by providing a written certification of the efforts made to give notice or proffering reasons why notice should not be required. His motion is subject to denial for this reason alone.

In addition, Plaintiff must satisfy the substantive requirements for a preliminary injunction to obtain a TRO. Issuing an injunction "is an extraordinary and drastic remedy, not to be granted routinely, but only when the movant, by a clear showing, carries the burden of persuasion." *White v. Carlucci*, 862 F.2d 1209, 1211 (5th Cir. 1989). A preliminary injunction is the exception, not the rule. *Miss. Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d 618, 621 (5th Cir. 1985). To obtain a preliminary injunction, the movant must show (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable injury if the injunction is not issued; (3) that the threatened injury outweighs any damage the order might cause to the respondent; and (4) that the injunction will not disserve the public interest. *Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210

F.3d 439, 442 (5th Cir. 2000). If the movant fails to carry the “heavy burden” to show each of these prerequisites, a preliminary injunction is not warranted. *See Enterprise Int’l, Inc. v. Corporacion Estatal Petrolera Ecuatoriana*, 762 F.2d 464, 472 (5th Cir. 1985).

In the prison setting, requests for a preliminary injunction are “viewed with great caution because ‘judicial restraint is especially called for in dealing with the complex and intractable problems of prison administration.’” *Goff v. Harper*, 60 F.3d 518, 520 (8th Cir. 1995) (quoting *Rogers v. Scurr*, 676 F.2d 1211, 1214 (8th Cir. 1982)). “Except in extreme circumstances”, the “federal courts are reluctant to interfere” with matters of prison administration and management, such as prison discipline and classification of inmates. *Young v. Wainwright*, 449 F.2d 338, 339 (5th Cir. 1971) (affirming denial of injunction to obtain release from administrative segregation).

Here, Plaintiff has neither alleged nor shown either a substantial likelihood that he will prevail on the merits, or that there is a substantial threat of irreparable injury if an injunctive relief is not granted. He has alleged no specific harassment or punishment as a result of his lawsuit, and he has not alleged or shown that an injunction is necessary to protect his interests in this case.

### III. RECOMMENDATION

The plaintiff’s motion for a temporary restraining order should be **DENIED**.

**SO RECOMMENDED this 6th day of July, 2018.**

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND  
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

  
IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE